

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TRAVIS DICKERSON,

Plaintiff,

v.

Case No. 18-CV-1944

BRANDON MORRIS, et al.,

Defendants.

DECISION AND ORDER

The plaintiff, Travis Dickerson, is a Wisconsin state prisoner representing himself. He filed this case alleging that the defendants subjected him to unconstitutional conditions of confinement at the Milwaukee Secure Detention Facility in violation of the Eighth Amendment. Dickerson has filed a motion for summary judgment on the merits of his claim and the defendants have filed a motion for summary judgment for failure to exhaust administrative remedies. I will deny Dickerson's motion for summary judgment and allow Dickerson an opportunity to file a supplemental response to the defendants' motion for summary judgment on exhaustion grounds.

Dickerson filed his motion for summary judgment on July 19, 2019, eight days after the defendants filed their answer. (Docket # 19.) He filed a supporting brief that reiterates the complaint allegations, an unsigned declaration that reiterates the complaint allegations, and proposed findings of fact that do not cite to evidentiary materials in the record. (Docket ## 20-22.) On the same day Dickerson filed his summary judgment motion, Dickerson also filed with the court two discovery requests for the defendants. (Docket ## 17, 18.)

Dickerson's summary judgment motion does not comply with the Local Rules or the Federal Rules of Civil Procedure, in part because he does not cite to evidence in the record in support of his motion. *See* Fed. R. Civ. P. 56(c)(1); Civil L.R. 56(b)(1) (E.D. Wis.). Dickerson has not shown that he is entitled to judgment as a matter of law and I will therefore deny his motion for summary judgment. *See* Fed. R. Civ. P. 56(a).

On November 15, 2019, the defendants filed a motion for summary judgment on exhaustion grounds. (Docket # 36.) Dickerson filed a declaration in response to the defendants' motion. (Docket # 41.) However, on January 9, 2020, the defendants filed a brief in reply to Dickerson's declaration in which they state that while they referenced "DPFOF" (Defendants' Proposed Findings of Fact) in their initial brief, they inadvertently failed to file the document previously. (Docket # 42 at 1 n.1.) The defendants file their Proposed Findings of Fact with their reply, along with an updated brief in support their motion for summary judgment, correcting the DPFOF citations. (*Id.*) Under the circumstances, I will allow Dickerson an opportunity to file a supplemental response to the defendants' motion for summary judgment on exhaustion grounds.

ORDER

NOW, THEREFORE, IT IS ORDERED that Dickerson's motion for summary judgment (Docket #19) is **DENIED**.

IT IS FURTHER ORDERED that Dickerson may file a supplemental response to the defendants' motion for summary judgment for failure to exhaust administrative remedies on or before **February 17, 2020**. If Dickerson files a supplemental response, the defendants will have fourteen days from the date of the response to file a supplemental reply.

Dated at Milwaukee, Wisconsin this 15th day of January, 2020.

BY THE COURT:

s/Nancy Joseph

NANCY JOSEPH

United States Magistrate Judge